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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,828	08/25/2006	Karl-Heinz Schweikart	2004DE105	1491

25255 7590 08/16/2007  
CLARIANT CORPORATION  
INTELLECTUAL PROPERTY DEPARTMENT  
4000 MONROE ROAD  
CHARLOTTE, NC 28205

EXAMINER
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GREEN, ANTHONY J

ART UNIT	PAPER NUMBER
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1755

MAIL DATE	DELIVERY MODE
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08/16/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/590,828

**Applicant(s)**

SCHWEIKART ET AL.

**Examiner**

Anthony J. Green

**Art Unit**

1755

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>22 January 2007</u> . | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Response to Amendment*

1. The preliminary amendment has been entered. After entry of the amendment claims 1-12 are currently pending.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Hamilton et al (US Patent No. 4,457,783).

The reference teaches stabilized opaque mixtures of pigment yellow 74 and closely structurally related derivatives. See column 2, lines 47-49 and also example 7 of the reference wherein R1 corresponds to methyl and methoxy in formula (1) of instant claim 1. The pigment yellow 74 is present in an amount of 80 to 99.0 % of Pigment yellow 74 and 1.0 to 20.0 % of a different monoazo yellow pigment based on acetoacet-2-anisidide.

The instant claims are met by the reference. It appears that the different monoazo pigment meets the pigment of formula (1). While the reference does not recite that the colorant is for pigmenting an inkjet-ink or a color filter it should be noted that the preamble limitation is of no consequence when the composition is the same.

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Ultimate intended utility does not make a composition patentable. See *In re Pearson*, 181 U.S.P.Q. 641. The amounts recited in the instant claims appear to be encompassed by the amounts of the reference.

4. Claims 1-8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Vermoortele et al (US Patent No. 6,261,354).

The reference teaches, in example 4 a mixture of Pigment Yellow 74 and Pigment Yellow 65.

The instant claims are met by the reference. The Pigment Yellow 65 appears to meet the pigment of formula (1). While the reference does not recite that the colorant is for pigmenting an inkjet ink or a color filter it should be noted that the preamble limitation is of no consequence when the composition is the same. Ultimate intended utility does not make a composition patentable. See *In re Pearson*, 181 U.S.P.Q. 641. Further it should be noted that the reference does however teach the use of the pigment to color a printing ink of which an inkjet ink is an example thereof. The amounts recited in the instant claims appear to be encompassed by the amounts of the reference.

5. Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Dongzhi et al (An Investigation Into The Synergism of Monoazoacetoacetanilide Pigments).

The reference teaches, a mixture of Pigment Yellow 74 and Pigment Yellow 65 (see for example pages 70 and 75).

The instant claims are met by the reference. The Pigment Yellow 65 appears to meet the pigment of formula (1). While the reference does not recite that the colorant is for pigmenting an inkjet ink or a color filter it should be noted that the preamble limitation is of no consequence when the composition is the same. Ultimate intended utility does not make a composition patentable. See *In re Pearson*, 181 U.S.P.Q. 641. Further it should be noted that the reference does however teach the use of the pigment to color a printing ink of which an inkjet ink is a known type of printing ink. The amounts recited in the instant claims appear to be encompassed by the amounts of the reference.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vermoortele et al (US Patent No. 6,261,354).

The reference was discussed previously.

The instant claims are obvious over the reference. While the reference does not teach that the colorant is for pigmenting an inkjet ink or a color filter it should be noted that it does teach its use to color printing inks and accordingly since an inkjet ink is an example of a printing ink its use to color an inkjet ink would have been obvious to one of ordinary skill in the art absent evidence showing otherwise.

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8. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dongzhi et al (An Investigation Into The Synergism of Monoazoacetoacetanilide Pigments).

The reference was discussed previously.

The instant claims are obvious over the reference. While the reference does not teach that the colorant is for pigmenting an inkjet ink or a color filter it should be noted that it does teach its use to color printing inks and accordingly since an inkjet ink is an example of a printing ink its use to color an inkjet ink would have been obvious to one of ordinary skill in the art absent evidence showing otherwise.

***Information Disclosure Statement***

9. The remaining references have been considered however they are not seen to teach and/or fairly suggest the instant invention.

***Reference Cited By The Examiner***

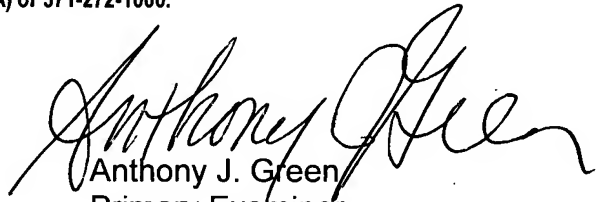
10. US Patent Publication 2007/0125260A1 is the publication of US patent application Serial No. 10/582,770 which was cited by applicant on the IDS and it is not seen to teach and/or fairly suggest the instant invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony J. Green whose telephone number is 571-272-1367. The examiner can normally be reached on Monday-Thursday 6:30-4:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on 571-272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Anthony J. Green  
Primary Examiner  
Art Unit 1755

ajg  
August 10, 2007